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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 998,492	11 30 2001	Gerald F. Frumusa	P02912	6379

7590 04 11 2003

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EXAMINER

NGUYEN, SANG H

ART UNIT PAPER NUMBER

2877

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,492

Applicant(s)

FRUMUSA ET AL.

Examiner

Sang H Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-20 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-20 and 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to Amendment "A" filed on 03/18/03 as paper No. 7. It is noted that the present application contains claims 1-6, 8-20, and 22-27 and claims 7 and 21 have been canceled by the Amendment "A".

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hofer et al (U.S. Patent No. 6,314,199).

Regarding claims 1, 16 and 18; Hofer et al discloses an assembly for inspecting an ophthalmic/contact lens, comprising:

* a light source (120 of figure 12) for directing emitting light the contact lens (6 of figure 1 and col.6 lines 62-63);

* an annular light aperture structure (a coherent subassembly [170 of figure 12] having internal thread [154 of figure 12] and external thread [138 of figure 12], and second reflector

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body [130 of figure 12]) having an open center (144 of figure 1), wherein the annular light aperture (170 of figure 12) for emitting light into the opening center (144 of figure 12) from the light source (120 of figure 12) into 360 degrees (figures 3-6 and 12) light rays which are directed inwardly to the open center (144 of figure 12);

* an annular diffuser is considered to be the surfaces of the first and second reflectors (118, 128 of figure 12, alternatively be design to be diffuse-reflecting [see col.8 lines 4-7]) positioned radially inwardly of the annular light structuring aperture (170 of figure 12) for diffusing the structured light; and

* a lens holder is considered to be a holding and transport means (8 of figure 1) for removably engaging and positioning the contact lens (6 of figure 1) in the opening center (144 of figure 12) of the annular light aperture structure (170 of figure 12) whereby the emitted light impinges upon the contact lens (6 of figure 1); and

* an image recording means (3 of figure 1) with an image sensor (4 of figure 1) is coupled to an image processing device, wherein the image sensor (4 of figure 1) for detecting or measuring flaws (13,14,15,16, and 17 of figure 2) on the surface of the contact lens (6 of figure 1), wherein clear areas of the contact lens (6 of figure 1) appear dark/bright due to the internal light reflection, and markings is considered to be flaws on the lens (6 of figure 2) appear bright/dark due to the internally reflected light scattering (col.2 lines 55-67, col.3 lines 1-9 and lines 52-67, and col.4 lines 40-56). See figures 1-12.

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Regarding claims 2-4 and 17: Hofer et al discloses imaging the lens (6 of figure 1) with an imaging device (3 of figure 1) during the inspection, wherein the image processing (2 of figure 1) having an image analysis (9 of figure 1) for comparing and determining the image received by the imaging device (3 of figure 1) with a predetermined set of threshold values whether the lens has passed or failed in the inspection. See claim 1 and 7, and figures 2 and 7-8.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-6, 8-15, 19-20, and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofer et al (U.S. Patent No. 6,314,199) in view of Lafferty et al (U.S. Patent No. 5,818,573, submitted in PTO-892 Paper No. 5).

Regarding claims 5-6, 8, and 19-20: Hofer et al teaches all of features in claimed invention as claims 1 and 16 except for a light source in an annular LED array. However, Lafferty et al teaches that it is known in the art to provide a light source in an annular LED array (16, 61 of figure 3 and col.6 lines 1-11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify assembly for inspecting an ophthalmic/contact lens of Hofer et al with a light source in an annular LED array as shown in

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the method and device of Lafferty et al for the purpose of being high efficiency and simultaneously illuminated to the contact lens.

Regarding claims 9-15 and 24-27; Hofer et al discloses the light structured by a first and a second annular 360 degrees light structuring aperture placed between the light source and the lens, wherein the surfaces of a first aperture block and a second aperture block. See figures 1 and 12.

Regarding claim 22; Hofer et al teaches all of features in claimed invention except for a light diffuser is made of plastic. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify assembly for inspecting an ophthalmic/contact lens of Hofer et al with light diffuser is made of plastic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Regarding claim 23; Hofer et al discloses the diffuser includes surfaces for reflecting the light received from the light source toward light structuring aperture. See figure 12.

Response to Arguments

6. Applicant's arguments with respect to claims 1-6, 8-20, and 22-27 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shalon et al (5.331,394) automated lensometer; or Labinger et al (4.998,819) discloses topography measuring apparatus.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Sang Nguyen whose telephone number (703)308-6426. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Frank Font, can be reached on (703)308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7722 or 7724.

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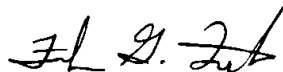
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

RS

Nguyen Sang/ sn

April 04, 2003


Frank G. Font
Supervisory Patent Examiner
Art Unit 2877
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